

DECLARATION OF LINDA B. B. BLACKBURN

I, Linda B. B. Blackburn, hereby declare that:

1. Exhibit 1 is a true and correct copy of 35 U.S.C. § 207 which provides:
 - (a) Each Federal Agency is authorized to-
 - (1) apply for, obtain, and maintain patents or other forms of protection in the United States and in foreign countries on inventions in which the Federal Government owns a right, title, or interest. (Underline added for emphasis.)
2. Exhibit 2 is a true and correct copy of 42 U.S.C. § 2472 which provides:
 - (a) Establishment; appointment and duties of Administrator
There is established the National Aeronautics and Space Administration (hereinafter called the "Administration"). The Administration shall be headed by an Administrator, who shall be appointed from civilian life by the President by and with the consent of the Senate. Under the supervision and direction of the President, the Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration. (Underline added for emphasis.)
3. Exhibit 3 is a true and correct copy of 42 U.S.C. § 2457 which provides:
 - (h) Protection of Title
The Administrator is authorized to take all suitable and necessary steps to protect any invention or discovery to which he has title, and to require that contractors or persons who retain title to inventions or discoveries under this section protect the inventions or discoveries to which the Administration has or may acquire a license of use. (Underline added for emphasis.)
4. Exhibit 4 is a true and correct copy of 42 U.S.C. § 2473 which provides:
 - (c) Powers of Administration in performance of its functions
In the performance of its functions the Administration is authorized-
 - (1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law; (Underline added for emphasis.)
5. Exhibit 5 is a true and correct copy of NASA Policy Directive, NPD 1400.1G which provides:
 - (1) POLICY
 - (a) NASA policy statements and the guidance or implementing instructions applicable to the NASA policies will be documented in the NASA Directives System. The NASA Directives System will consist of NASA Policy Directives (NPD), NASA Policy Charters (NPC), and NASA Procedures and Guidelines (NPG). All NPD's and NPG's will be signed by the Administrator, and the signature level for the NPG's may not go below the Official-in-Charge of the Headquarters organization originating the NPG.
 - (b) NPD's are policy statements that describe the "what" that is required by NASA management for achieving NASA's vision and mission.
NPG's are charters for councils, committees, and working groups that

are mandated by statute or by the NASA Administrator. NPG's provide the detailed instructions and guidelines for implementing the NASA policy; they are the "how to" instructions. (Underline added for emphasis.)

6. Exhibit 6 is a true and correct copy of NASA Policy directive, NPD 2091.1A which provides:

5. RESPONSIBILITY

(b) The NASA General Counsel, or designee(s), the Associate General Counsel (Intellectual Property), and Center Patent or Intellectual Property Counsel are responsible for the following:


- (4) Taking all suitable and necessary steps to obtain and maintain patent protection (domestic and foreign) on any reported invention to which the Government has the right to obtain either title or a Government license and for which there is sufficient Government interest to do so. (Underline added for emphasis).

7. Exhibit 7 is a flow chart indicating the chain of responsibility from the Administrator or his designee to the Center Patent or Intellectual Property Counsel as set forth in Exhibits 1-6.
8. I, Linda B. B. Blackburn, as the Patent (or Intellectual Property) Counsel at NASA Langley Research Center, Hampton, Virginia, by the statutes, and NASA Directives cited above, am delegated the responsibility and authority by the Administrator to sign and/or appoint associate attorneys to sign documents on his behalf. I hereby appoint the following named attorneys:

Kurt G. Hammerle	Reg. No. 36,819
Robin W. Edwards	Reg. No. 39,179
Helen M. Galus	Reg. No. 40,615
Barry V. Gibbens	Reg. No. 44,707

9. I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 3/13/03



LINDA B. B. BLACKBURN
Designated Representative of the Administrator of the
National Aeronautics and Space Administration (NASA)

Attachments: Exhibits 1 through 7

EXHIBIT 1

35 U.S.C. § 207 - Domestic and foreign protection of federally owned inventions

- (a) **Each Federal agency is authorized to -**
 - (1) apply for, obtain, and maintain patents or other forms of protection in the United States and in foreign countries on inventions in which the Federal Government owns a right, title, or interest;
 - (2) grant nonexclusive, exclusive, or partially exclusive licenses under federally owned patent applications, patents, or other forms of protection obtained, royalty-free or for royalties or other consideration, and on such terms and conditions, including the grant to the licensee of the right of enforcement pursuant to the provisions of chapter 29 of this title as determined appropriate in the public interest;
 - (3) undertake all other suitable and necessary steps to protect and administer rights to federally owned inventions on behalf of the Federal Government either directly or through contract; and
 - (4) transfer custody and administration, in whole or in part, to another Federal agency, of the right, title, or interest in any federally owned invention.
- (b) **For the purpose of assuring the effective management of Government-owned inventions, the Secretary of Commerce is authorized to -**
 - (1) assist Federal agency efforts to promote the licensing and utilization of Government-owned inventions;
 - (2) assist Federal agencies in seeking protection and maintaining inventions in foreign countries, including the payment of fees and costs connected therewith; and
 - (3) consult with and advise Federal agencies as to areas of science and technology research and development with potential for commercial utilization.

EXHIBIT 2

42 U.S.C. § 2472 - National Aeronautics and Space Administration

(a) **Establishment; appointment and duties of Administrator**

There is established the National Aeronautics and Space Administration (hereinafter called the "Administration"). The Administration shall be headed by an Administrator, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate. Under the supervision and direction of the President, the Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

(b) **Deputy Administrator; appointment and duties**

There shall be in the Administration a Deputy Administrator, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate and shall perform such duties and exercise such powers as the Administrator may prescribe. The Deputy Administrator shall act for, and exercise the powers of, the Administrator during his absence or disability.

(c) **Restriction on engaging in any other business, vocation, or employment**

The Administrator and the Deputy Administrator shall not engage in any other business, vocation, or employment while serving as such.

EXHIBIT 3

42 U.S.C. § 2457 - Property Rights

- (a) Exclusive property of United States; issuance of patent
Whenever any invention is made in the performance of any work under any contract of the Administration, and the Administrator determines that -
- (1) the person who made the invention was employed or assigned to perform research, development, or exploration work and the invention is related to the work he was employed or assigned to perform, or that it was within the scope of his employment duties, whether or not it was made during working hours, or with a contribution by the Government of the use of Government facilities, equipment, materials, allocated funds, information proprietary to the Government, or services of Government employees during working hours; or
 - (2) the person who made the invention was not employed or assigned to perform research, development, or exploration work, but the invention is nevertheless related to the contract, or to the work or duties he was employed or assigned to perform, and was made during working hours, or with a contribution from the Government of the sort referred to in clause (1), such invention shall be the exclusive property of the United States, and if such invention is patentable a patent therefor shall be issued to the United States upon application made by the Administrator, unless the Administrator waives all or any part of the rights of the United States to such invention in conformity with the provisions of subsection (f) of this section.
- (b) Contract provisions for furnishing reports of inventions, discoveries, improvements, or innovations Each contract entered into by the Administrator with any party for the performance of any work shall contain effective provisions under which such party shall furnish promptly to the Administrator a written report containing full and complete technical information concerning any invention, discovery, improvement, or innovation which may be made in the performance of any such work.
- (c) Patent application
No patent may be issued to any applicant other than the Administrator for any invention which appears to the Commissioner of Patents and Trademarks to have significant utility in the conduct of aeronautical and space activities unless the applicant files with the Commissioner, with the application or within thirty days after request therefor by the Commissioner, a written statement executed under oath setting forth the full facts concerning the circumstances under which such invention was made and stating the relationship (if any) of such invention to the performance of any work under any contract of the Administration. Copies of each such statement and the application to which it relates shall be transmitted forthwith by the Commissioner to the Administrator.
- (d) Issuance of patent to applicant; request by Administrator; notice; hearing; determination; review Upon any application as to which any such statement has been transmitted to the Administrator, the Commissioner may, if the invention is patentable, issue a patent to the applicant unless the Administrator, within ninety days after receipt of such application and statement, requests that such patent be issued to him on behalf of the United States. If, within such time, the Administrator files such a request with

the Commissioner, the Commissioner shall transmit notice thereof to the applicant, and shall issue such patent to the Administrator unless the applicant within thirty days after receipt of such notice requests a hearing before the Board of Patent Appeals and Interferences on the question whether the Administrator is entitled under this section to receive such patent. The Board may hear and determine, in accordance with rules and procedures established for interference cases, the question so presented, and its determination shall be subject to appeal by the applicant or by the Administrator to the United States Court of Appeals for the Federal Circuit in accordance with procedures governing appeals from decisions of the Board of Patent Appeals and Interferences in other proceedings.

- (e) False representations; request for transfer of title to patent; notice; hearing; determination; review

Whenever any patent has been issued to any applicant in conformity with subsection (d) of this section, and the Administrator thereafter has reason to believe that the statement filed by the applicant in connection therewith contained any false representation of any material fact, the Administrator within five years after the date of issuance of such patent may file with the Commissioner a request for the transfer to the Administrator of title to such patent on the records of the Commissioner. Notice of any such request shall be transmitted by the Commissioner to the owner of record of such patent, and title to such patent shall be so transferred to the Administrator unless within thirty days after receipt of such notice such owner of record requests a hearing before the Board of Patent Appeals and Interferences on the question whether any such false representation was contained in such statement. Such question shall be heard and determined, and determination thereof shall be subject to review, in the manner prescribed by subsection (d) of this section for questions arising thereunder. No request made by the Administrator under this subsection for the transfer of title to any patent, and no prosecution for the violation of any criminal statute, shall be barred by any failure of the Administrator to make a request under subsection (d) of this section for the issuance of such patent to him, or by any notice previously given by the Administrator stating that he had no objection to the issuance of such patent to the applicant therefor.

- (f) Waiver of rights to inventions; Inventions and Contributions Board

Under such regulations in conformity with this subsection as the Administrator shall prescribe, he may waive all or any part of the rights of the United States under this section with respect to any invention or class of inventions made or which may be made by any person or class of persons in the performance of any work required by any contract of the Administration if the Administrator determines that the interests of the United States will be served thereby. Any such waiver may be made upon such terms and under such conditions as the Administrator shall determine to be required for the protection of the interests of the United States. Each such waiver made with respect to any invention shall be subject to the reservation by the Administrator of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government pursuant to any treaty or agreement with the United States. Each proposal for any waiver under this subsection shall be referred to an Inventions and Contributions Board which shall be established by the Administrator within the Administration. Such Board shall accord to each interested party an opportunity for hearing, and shall transmit to the Administrator its findings of fact with respect to such proposal and its recommendations for action to be taken with respect thereto.

- (g) Repealed. Pub. L. 96-517, Sec. 7(b), Dec. 12, 1980, 94 Stat. 3027
- (h) Protection of title
The Administrator is authorized to take all suitable and necessary steps to protect any invention or discovery to which he has title, and to require that contractors or persons who retain title to inventions or discoveries under this section protect the inventions or discoveries to which the Administration has or may acquire a license of use.
- (i) Administration as defense agency
The Administration shall be considered a defense agency of the United States for the purpose of chapter 17 of title 35.
- (j) Definitions
As used in this section -
- (1) the term "person" means any individual, partnership, corporation, association, institution, or other entity;
 - (2) the term "contract" means any actual or proposed contract, agreement, understanding, or other arrangement, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder; and
 - (3) the term "made", when used in relation to any invention, means the conception or first actual reduction to practice of such invention.
- (k) Objects intended for launch, launched, or assembled in outer space
Any object intended for launch, launched, or assembled in outer space shall be considered a vehicle for the purpose of section 272 of title 35.
- (1) Use or manufacture of patented inventions incorporated in space vehicles launched for persons other than United States. The use or manufacture of any patented invention incorporated in a space vehicle launched by the United States Government for a person other than the United States shall not be considered to be a use or manufacture by or for the United States within the meaning of section 1498(a) of title 28, unless the Administration gives an express authorization or consent for such use or manufacture.

EXHIBIT 4

42 U.S.C. § 2473 - Functions of Administration

- (a) Planning, directing and conducting aeronautical and space activities; participation by scientific community; dissemination of information
- The Administration, in order to carry out the purpose of this chapter, shall -
- (1) plan, direct, and conduct aeronautical and space activities;
 - (2) arrange for participation by the scientific community in planning scientific measurements and observations to be made through use of aeronautical and space vehicles, and conduct or arrange for the conduct of such measurements and observations;
 - (3) provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof;
 - (4) seek and encourage, to the maximum extent possible, the fullest commercial use of space; and
 - (5) encourage and provide for Federal Government use of commercially provided space services and hardware, consistent with the requirements of the Federal Government.
- (b) Research, development, etc., in ground propulsion technologies and solar heating and cooling technologies
- (1) The Administration shall, to the extent of appropriated funds, initiate, support, and carry out such research, development, demonstration, and other related activities in ground propulsion technologies as are provided for in sections 2503 through 2509 of title 15.
 - (2) The Administration shall initiate, support, and carry out such research, development, demonstrations, and other related activities in solar heating and cooling technologies (to the extent that funds are appropriated therefor) as are provided for in sections 5503, 5504, and 5507 of this title.
- (c) Powers of Administration in performance of its functions
- In the performance of its functions the Administration is authorized -
- (1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law;
 - (2) to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5, except that (A) to the extent the Administrator deems such action necessary to the discharge of his responsibilities, he may appoint not more than four hundred and twenty-five of the scientific, engineering, and administrative personnel of the Administration without regard to such laws, and may fix the compensation of such personnel not in excess of the highest rate of grade 18 of the General Schedule, and (B) to the extent the Administrator deems such action necessary to recruit specially qualified scientific and engineering talent, he may establish the entrance grade for scientific and engineering personnel without previous service in the Federal Government at a level up to two grades higher than the grade provided for such personnel under the General Schedule, and fix their compensation accordingly;
 - (3) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, aeronautical and space vehicles, quarters and related accommodations for employees

- and dependents of employees of the Administration, and such other real and personal property (including patents), or any interest therein, as the Administration deems necessary within and outside the continental United States; to acquire by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia for the use of the Administration for a period not to exceed ten years without regard to section 34 of title 40; to lease to others such real and personal property; to sell and otherwise dispose of real and personal property (including patents and rights thereunder) in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.); and to provide by contract or otherwise for cafeterias and other necessary facilities for the welfare of employees of the Administration at its installations and purchase and maintain equipment therefor;
- (4) to accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible;
 - (5) without regard to section 3324(a) and (b) of title 31, to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its work and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, Territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution. To the maximum extent practicable and consistent with the accomplishment of the purpose of this chapter, such contracts, leases, agreements, and other transactions shall be allocated by the Administrator in a manner which will enable small-business concerns to participate equitably and proportionately in the conduct of the work of the Administration;
 - (6) to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities. Each department and agency of the Federal Government shall cooperate fully with the Administration in making its services, equipment, personnel, and facilities available to the Administration, and any such department or agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, aeronautical and space vehicles, and supplies and equipment other than administrative supplies or equipment;
 - (7) to appoint such advisory committees as may be appropriate for purposes of consultation and advice to the Administration in the performance of its functions;
 - (8) to establish within the Administration such offices and procedures as may be appropriate to provide for the greatest possible coordination of its activities under this chapter with related scientific and other activities being carried on by other public and private agencies and organizations;
 - (9) to obtain services as authorized by section 3109 of title 5, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18;
 - (10) when determined by the Administrator to be necessary, and subject to such security investigations as he may determine to be appropriate, to employ aliens without regard to statutory provisions prohibiting payment of compensation to aliens;
 - (11) to provide by concession, without regard to section 303b of title 40, on such terms as the Administrator may deem to be appropriate and to be necessary to protect the concessioner against loss of his investment in property (but not anticipated profits) resulting from the Administration's discretionary acts and decisions, for the construction, maintenance, and operation of all manner of facilities and equipment for visitors to the several installations of the Administration and, in connection therewith, to provide services incident to the dissemination of information concerning its activities to such visitors, without charge or with a reasonable charge

therefor (with this authority being in addition to any other authority which the Administration may have to provide facilities, equipment, and services for visitors to its installations). A concession agreement under this paragraph may be negotiated with any qualified proposer following due consideration of all proposals received after reasonable public notice of the intention to contract. The concessioner shall be afforded a reasonable opportunity to make a profit commensurate with the capital invested and the obligations assumed, and the consideration paid by him for the concession shall be based on the probable value of such opportunity and not on maximizing revenue to the United States. Each concession agreement shall specify the manner in which the concessioner's records are to be maintained, and shall provide for access to any such records by the Administration and the Comptroller General of the United States for a period of five years after the close of the business year to which such records relate. A concessioner may be accorded a possessory interest, consisting of all incidents of ownership except legal title (which shall vest in the United States), in any structure, fixture, or improvement he constructs or locates upon land owned by the United States; and, with the approval of the Administration, such possessory interest may be assigned, transferred, encumbered, or relinquished by him, and, unless otherwise provided by contract, shall not be extinguished by the expiration or other termination of the concession and may not be taken for public use without just compensation;

- (12) with the approval of the President, to enter into cooperative agreements under which members of the Army, Navy, Air Force, and Marine Corps may be detailed by the appropriate Secretary for services in the performance of functions under this chapter to the same extent as that to which they might be lawfully assigned in the Department of Defense;
- (13) (A) to consider, ascertain, adjust, determine, settle, and pay, on behalf of the United States, in full satisfaction thereof, any claim for \$25,000 or less against the United States for bodily injury, death, or damage to or loss of real or personal property resulting from the conduct of the Administration's functions as specified in subsection (a) of this section, where such claim is presented to the Administration in writing within two years after the accident or incident out of which the claim arises; and
- (B) if the Administration considers that a claim in excess of \$25,000 is meritorious and would otherwise be covered by this paragraph, to report the facts and circumstances thereof to the Congress for its consideration.

EXHIBIT 5

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NASA

Directive: NPD 1400.1G

POLICY

Effective Date: February 13, 2002

DIRECTIVE

Expiration Date: February 13, 2007

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Responsible Office: JM / Management Assessment Division

Subject: NASA Directives System

1. POLICY

a. NASA shall document its policy statements, procedures, and guidance in the NASA Directives System. The NASA Directives System shall consist of NASA Policy Directives (NPD), and NASA Procedures and Guidelines (NPG). The Administrator shall sign all NPD's. The signatory authority for NPG's shall be the Official-in-Charge of the Headquarters organization originating the NPG, or the Administrator as appropriate.

b. NPD's are policy statements that describe "what" is required by NASA management to achieve NASA's vision and mission. NPG's are the "how to" instructions; they provide required procedures as well as guidelines to implement NASA policy. To the extent feasible or whenever practicable and appropriate, NPG's should distinguish those procedures or guidelines that are required from those that are recommended, preferred, suggested, or intended to serve only as a guide.

2. APPLICABILITY

This NPD is applicable to NASA Headquarters and NASA Centers, including Component Facilities.

3. AUTHORITY

a. 42 U.S.C. 2473 (c)(1), Section 203(c)(1) of the National Aeronautics and Space Act of 1958, as amended.

b. 41 CFR Chapter 101, Subchapter B, Part 101-11, "Creation, Maintenance, and Use of Records." (See Proposed Rule at Federal Register: August 9, 2000 (Volume 65, Number 154, Page 48655-48658, to move Creation, Maintenance, and Use of Records to Part 102-193 of the Financial Management Regulations.)

c. 40 U.S.C. 1401 et seq., The Clinger-Cohen Act (Section 808 of Pub. L. 104-208, renaming in pertinent part the Information Technology Management Reform Act of 1996, Division E of Pub. L. 104-106, The National Defense Authorization Act of 1996).

d. 44 U.S.C. 3501 et seq., the Paperwork Reduction Act of 1995, (Pub. L. 104-13), as amended.

4. REFERENCE

NPG 1400.1, NASA Directives System Procedures and Guidelines.

5. RESPONSIBILITY

- a. The Deputy Administrator or as delegated the Associate Deputy Administrator is responsible for determining the need for each Agency directive, ensuring that appropriate NASA officials coordinate on the directive, assigning suspense dates for the coordination process, and concurring on each directive in its final form before securing the approval signature.
- b. Officials-in-Charge of Headquarters Offices are responsible for determining their organization's need for a directive, assigning the action to create or revise a directive, securing appropriate coordination and approval signatures on directives, and cancelling directives when they have served their purpose, are no longer needed, or are consolidated with other directives.
- c. Institutional Program Office Associate Administrators are responsible for coordinating directives with their respective Centers, representing the positions taken by their Centers, and consolidating Center comments into a single position for their respective institutional area.
- d. NASA Center Directors are responsible for ensuring that their Center directives do not duplicate or supersede Agency directives and designating a Center Directives Manager as the focal point for all matters pertaining to directives.
- e. The NASA General Counsel is responsible for reviewing for legal propriety and commenting on all directives during the coordination and clearance process, and for concurring prior to concurrence by the Associate Deputy Administrator and signature by the cognizant approving NASA official.
- f. The Inspector General, in accordance with Public Law 95-452, Section 4(a)(2), is responsible for reviewing and commenting on all directives during the Official Review Process for any impact on economy and efficiency in the administration and operations of NASA programs and to prevent and detect fraud, waste, and abuse in NASA programs.
- g. The NASA Chief Financial Officer is responsible for reviewing and concurring on all directives during the Official Review Process to ensure that proper consideration is given to financial issues.
- h. The Assistant Administrator for Human Resources and Education is responsible for reviewing and concurring on all directives during the Official Review Process to ensure coordination with national offices of Federal labor organizations and adherence to applicable laws and regulations.
- i. The Management Assessment Division in the Office of Management Systems is responsible for the following: managing the NASA Directives System; assisting and supporting the Associate Deputy Administrator in processing NASA directives; reviewing and concurring on all directives; and tracking, monitoring, and reporting activities associated with processing NASA directives. The Division verifies the accuracy of the directive in its final form when it goes to the Associate Deputy Administrator for concurrence and to the appropriate NASA official for approval signature. The Division ensures that comments received from reviewing officials during

the coordination process have been dispositioned and that any nonconcurrences are resolved or rationale for nonacceptance is documented and available in the signature package. The Division is the official repository for official files for approved directives.

j. The Chief, Headquarters Correspondence and Mail Communications Management Office, is responsible for the final quality review of directives prior to signature and approval by the Agency official. The Office is responsible for coordinating all changes directly with the originating office to ensure that the directives document conforms with NPG 1450.10, NASA Correspondence Management and Communications Standards and Style.

6. DELEGATION OF AUTHORITY

None.

7. MEASUREMENTS

The Management Assessment Division of the Office of Management Systems and Facilities will create and maintain official statistical reports and records associated with processing directives.

8. CANCELLATION

NPD 1400.1F, NASA Directives System, dated July 19, 1999.

/s/ Sean O'Keefe
Administrator

ATTACHMENT A: (TEXT)

None.

(URL for Graphic)

None.

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EXHIBIT 6

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NASA

Directive: NPD 2091.1A

POLICY

Effective Date: May 20, 2002

DIRECTIVE

Expiration Date: May 20, 2007

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Responsible Office: G / Office of the General Counsel

Subject: Inventions Made By Government Employees

1. POLICY

Consistent with 37 CFR Part 501, it is NASA's policy to:

- a. Protect the Government's interest in, and to provide for the widest practicable and appropriate dissemination, early utilization, expeditious commercial development, and continued availability of, inventions reported to NASA that are made by Government employees.
- b. Be fair and impartial in the administration of the rights to such inventions and to afford an employee making an invention the opportunity to retain title to such invention for which there is insufficient Government interest or equity for the Government to acquire title.
- c. Ensure that all employees making and reporting inventions on which NASA files patent applications are considered by the Inventions and Contributions Board (ICB) for an initial monetary award as well as a supplemental monetary award, based both on the commercial application of the invention and its contribution to NASA's missions and program objectives.

2. APPLICABILITY

- a. This NPD is applicable to NASA Headquarters and all NASA Centers, including Component Facilities.
- b. This NPD applies to any invention made by a NASA employee or an employee of another Government agency reporting an invention to NASA.
- c. The term "invention" means any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, that is or may be patentable or protectable under the intellectual property laws of the United States or of a foreign country.

3. AUTHORITY

- a. 42 U.S.C. 2451(c), 2473(a)(3), 2457(h), and 2458.
- b. 15 U.S.C. 3710b, 3710d.
- c. Executive Order 10096, dated January 23, 1950.
- d. 37 CFR Part 501.
- e. Executive Order 12591, dated April 10, 1987.
- f. Executive Order 12674, dated April 12, 1989.
- g. 14 CFR Part 1240.

4. REFERENCE

- a. NPD 2092.1, "Royalties Received by NASA from the Licensing of Patents and Patent Applications."
- b. NPD 2000:1E, "Authority to Take Certain Actions for the General Counsel," dated February 24, 1997.

5. RESPONSIBILITY

- a. Officials-in-Charge of Headquarters Offices are responsible for the overall management of this policy.
- b. The NASA General Counsel, or designee(s), the Associate General Counsel (Intellectual Property), and Center Patent or Intellectual Property Counsel, are responsible for the following:
 - (1) Making the NASA determination of the respective rights of the Government and the employee in any reported invention, and advising the employee in a timely manner of the determination.
 - (2) Determining whether there is sufficient interest to obtain patent protection (domestic or foreign) on any invention reported to NASA for which the Government has the right to obtain either title or a Government license, and based on such determination either--
 - (a) Authorize the filing of a patent application by NASA and so notify the employee; or
 - (b) In the case of insufficient Government interest in pursuing patent protection, notify the employee of the determination and allow the employee the opportunity to pursue patent protection.
 - (3) Notifying the ICB of any NASA authorization to file a patent application on any invention made and reported to NASA by a Government employee.
 - (4) Taking all suitable and necessary steps to obtain and maintain patent protection (domestic and foreign) on any reported invention to which the Government has the right to obtain either title or a Government license and for which there is sufficient Government interest to do so.
 - (5) Ensuring that all inventors named in a patent application meet the legal requirements of inventorship.
- c. The ICB, pursuant to 14 CFR Part 1240, shall upon notification of the

authorization to file a patent application on any invention made by a NASA employee, consider the inventor for an initial monetary award as well as a supplemental monetary award, based on both the commercial application of the invention and its contribution to NASA's mission and program objectives.

- d. Center Directors, in coordination with the Institutional Program Office Associate Administrators, are responsible for the following:
 - (1) Ensuring that employees making inventions submit to the Office of the General Counsel, or to the designee(s), the Center Patent or Intellectual Property Counsel, disclosures of such inventions; and
 - (2) Ensuring that the supervisor of an employee reporting an invention, or other NASA personnel having immediate technical cognizance of a reported invention, provide upon request the following:
 - (a) Either concurrence with, or additional comments on, any information regarding the circumstances under which the invention was made.
 - (b) An evaluation of the technical significance of the invention, and to the extent feasible, an assessment of the commercial potential of the invention.
- e. Each employee who makes an invention (whether or not the invention was made during working hours, was made with a contribution of Government resources, or bears a relationship to the official duties of the employee) is required to submit to the Office of the General Counsel, or to the delegated Center Patent or Intellectual Property Counsel, a disclosure of such invention.
 - (1) With respect to any invention reported, the employee shall either--
 - (a) Agree to assign titles of the invention to the Government, in any country, upon request of NASA; or
 - (b) If the employee believes NASA is not entitled to such assignment of the invention, the employee shall provide information regarding the circumstances under which the invention was made and the relationship of the invention to the employee's official or assigned duties so that a rights determination can be made pursuant to 37 CFR Part 501.
 - (2) Employees shall execute all documents necessary for NASA to file and prosecute patent applications and to obtain and maintain patents on any inventions for which the Government obtains assignments of title and for which NASA decides to protect by patenting in any country.
 - (3) Employees shall assist, as requested, in the prosecution of the patent applications, and in making available records relating to the conception or reduction to practice the invention, if needed to establish inventorship or priority of invention.
 - (4) Employees shall take all reasonable steps to prevent creating a bar to patentability of an invention, including consulting with the Office of the General Counsel or the Center Patent or Intellectual Property Counsel, prior to publishing or otherwise disclosing any details of the invention or publicly using the invention.

6. DELEGATION OF AUTHORITY

None.

7. MEASUREMENTS

None.

8. CANCELLATION

NPD 2091.1, dated July 31, 1997

Revalidated May 20, 2002, Original Signed by

/s/Danial S. Goldin
Administrator

ATTACHMENT A: (TEXT)

(URL for Graphic)

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EXHIBIT 7

CHAIN OF RESPONSIBILITY FOR PROTECTION OF NASA INTELLECTUAL PROPERTY

